

**DAIRY PRODUCTS PRICES – Q & A 's**  
**Updated 9/19/07**

**Issue – Inclusions and Exclusions**

Question: Should organic dairy products be included in the weekly report submitted to NASS?

Answer: *No.*

Question: Should rBST-free dairy products be included in the weekly report submitted to NASS?

Answer: *Yes.*

Question: Should dairy products enhanced with flavorings (i.e. jalapenos added to cheese) be included in the weekly report submitted to NASS?

Answer: *No.*

Question: Should “Hi acid” cheddar cheese be included in the weekly report submitted to NASS?

Answer: *No.*

Question: Should “Hi Color” salted butter be included in the weekly report submitted to NASS?

Answer: *No.*

Question: CME spot cheese includes a 3-cent per pound discount for cheese delivered in steel barrels. How does this impact the prices submitted to NASS?

Answer: *It has no impact. The price reported to NASS should be the value received by the firm. The value reported to NASS should not be adjusted to reflect the 3-cent discount.*

Question: Should energy surcharges be included in the price reported to NASS?

Answer: *Yes.*

Question: Should brokerage fees be included in the price reported to NASS?

Answer: *Yes.*

Question: The Dairy Products Prices Cheddar Cheese survey form specifies to exclude 40 pound blocks of cheddar cheese to be aged. Should 500 pound barrels sold for aging be excluded as well?

Answer: *Yes.*

Question: Should reduced or low fat cheddar cheese products be included in the weekly report submitted to NASS?

Answer: *No.*

### **Issue – Product Age**

Question: Why exclude NFDM that is more than 180 days old?

Answer: *The criteria for what sales to report is being reviewed as part of the Mandatory Reporting Rule. Comments on these criteria are being accepted and criteria may be changed for good cause.*

Question: How should industry maintain records on the NFDM 180-day issue?

Answer: *How records are to be maintained is an individual company decision.*

### **Issue – Product Grade and Color**

Question: If the product is not graded, how do firms know to include/exclude on the weekly Dairy Products Prices Survey?

Answer: *The individual in the plant responsible for plant production (i.e. cheese maker) should be consulted to determine the quality of the product being produced. If the product quality is equal or equivalent to grades specified on the Dairy Products Price questionnaires, the product should be included.*

Question: How do firms determine if 40 pound blocks of cheddar meet the color specifications?

Answer: *The individual in the plant responsible for plant production (i.e. cheese maker) should be consulted to determine if the color of the product being produced meets specifications.*

### **Issue – Intra-Company Sales**

Question: What is the definition of “intra-company” sales that are to be excluded?

Answer: *Intra-company sales are transfers from one division of a company to another division, generally for further manufacture.*

Question: For instance, if the division of a company transfers product to another division is that volume to be excluded?

Answer: *Yes*

Question: If a company sells product to a wholly owned subsidiary that maintains separate books and records, is that volume to be included?

Answer: *No*

Question: If there is a federation of cooperatives and one member of the federation sells product to another member, is that volume to be included?

Answer: *Yes*

Question: If a member of such a federation sells to the federation, should that volume be included?

Answer: *Yes*

Question: If the federation makes the first sale of product to a member, should that volume be included?

Answer: *Yes*

### **Issue – Complete Transaction**

Question: When is a transaction complete – “‘shipped out’ and title transfer” – or is there some other factor such as possession?

Answer: *No, there is no other condition.*

Question: Is the transaction completed if you only have one of these factors?

Answer: *No*

Question: If a purchase order calls for multiple shipments, is the transaction only completed when the last shipment is made and title transferred?

Answer: *This question is very general and only a general answer can be given. Sales should be reported as the date product is shipped out and the title transferred. If a specific situation arises where the inclusion of data is questionable, the plant or its agent should contact NASS.*

Question: When is a transaction completed if a shipment is delayed and title is not transferred

because of actions outside the control of the parties?

Answer: *If the title is not transferred, the sale is not complete.*

Question: If an entity sells product to a customer and after the sale the customer requests that the seller keep the product available at the seller's warehouse for up to 6 months should that product be included?

Answer: *No*

Question: Please confirm that a sale to a customer where the product by contract is stored in the original warehouse and later shipped (although title passes immediately); the only reportable transactions would be for those weeks when shipment occurs within 30 days of the sales contract.

Answer: *If by contract the product remains in the original warehouse and a storage cost is applied from that date, the product is considered "shipped" and the sale should be reported. Storage costs should not be included as part of the sales price.*

Question: If a sale is made and product is shipped FOB but delivery of the product to the customer does not happen because of an Act of God and a dispute arises over the payment, should the sale be included when it is shipped?

Answer: *Yes. If a specific situation arises where the inclusion of data is questionable, the plant or its agent should contact NASS.*

Question: Should a revised payment agreement result in restatement of the past report? If so, how long after the original transaction should a revised report be made?

Answer: *Yes. Revisions should be made to the four weeks of data prior to the week being reported. If a specific situation arises where the revision of data is questionable, the plant or its agent should contact NASS.*

Question: What about other price adjustments common in the marketplace arising from a price dispute, product dispute or otherwise a private party disagreement that results in an adjusted price? Should a revised payment agreement result in a restatement of a past report? Again if so, for how far back should a revised report be made?

Answer: *Revisions should be made to the four weeks of data prior to the week being reported. If a specific situation arises where the revision of data is questionable, the plant or its agent should contact NASS.*

### **Issue – Forward Contracts**

Question: When does the 30-day exclusion period commence?

Answer: *The 30 days refers to when the selling price was set. Meaning, the selling price was set (and not adjusted) 30 or more days before the transaction was completed.*

Question: If a sale is set and then the price adjusted within 30 days which price is reported and within what time period?

Answer: *Sales should be reported as the date product is shipped out and the title transferred. If a specific situation arises where the inclusion of data is questionable, the plant or its agent should contact NASS. You should report the price when the transaction is completed and if needed submit revisions (up to four weeks).*

Question: A sales contract is entered into on May 1 at \$1.00 per pound of product specifying five shipments of 1 million total product pounds divided equally (200,000 pounds each) on May 10, May 20, June 1, July 1, and August 1. Title passes on the date of shipment. But the contract is not deemed to be fulfilled unless all the shipments are made and the price while fixed in the contract may turn out to be disputed. None the less, there are five separate shipments. All shipments are made on the specified date. There is no dispute as to the May 10 and July 1 shipments and the price paid is the price in the contract for those two shipments. However, a dispute arises as to the May 20, June 1 and August 1 shipments. Each dispute is resolved within 10 days of shipment (May 30, June 10 and August 10) at a price of \$0.95 for May 20 and June 1 shipments and of \$1.05 for the August 1 shipment. Which of these five shipments included in this one contract are reported (if any), when, at what price and with what adjustments (if any). Is the answer different in any way if there is no dispute as to any transaction?

Answer: *Absent a contract for storage, only shipments made on May 10 and May 20 should be reported at the contract price. Price adjustments occurring within the NASS's four-week revision period should be reported.*

Question: Why are DEIP sales included but other export sales excluded even though the market practice regarding exports is to price out beyond 30 days?

Answer: *All DEIP sales are export sales, but not all export sales are DEIP sales. The criteria established were very specific that only DEIP sales were to be included. The criteria for what sales to report will be review shortly as part of the Mandatory Reporting Rule. Comments on these criteria will be accepted at that time and criteria may be changed for good cause.*

Question: An export contract is entered into for sales for the next three months. The volumes to be shipped (total) for duration are fixed but the price is not fixed until under 30 days before shipment. However, the parties set a floor price, below which the price cannot fall, and a ceiling price, which the price cannot go above.

Answer: *The plant should report sales prices and volumes for the first 30 days of the contract*

*period. After the first 30 days, sales prices and volumes should be reported as long as the sales price is not one of the boundary prices. Boundary prices were established at the beginning of the contract period and therefore are not necessarily representative of current market conditions.*

Question: An export contract is entered into for sales through January. The volumes to be shipped (total) for duration are fixed but the price is not fixed until under 30 days before shipment except that the parties set a floor price below which the price cannot fall. The floor is below current prices. There is no ceiling price and no range as in the last question.

Answer: *The plant should report sales prices and volumes for the first 30 days of the contract period. After the first 30 days, Sales prices and volumes should be reported as long as the sales price is not the boundary price. The boundary price was established at the beginning of the contract period and therefore is not necessarily representative of current market conditions.*

Question: A plant has a long-term contract to sell dairy products at a price that varies with market supply and demand conditions. Prices change at least every 30 days reflecting current conditions. The contract, however, contains an upper boundary price level and/or a lower boundary price level. Should the plant report sales made under this contract?

Answer: *The plant should report sales prices and volumes for the first 30 days of the contract period. After the first 30 days, sales prices and volumes should be reported as long as the sales price is not one of the boundary prices. Boundary prices were established at the beginning of the contract period and therefore are not necessarily representative of current market conditions.*

### **Issue – CWT Sales**

Question: Regarding the handling of CWT export sales. We have a plant which has sold cheese through the CWT. It accounts for a minor portion of total volume. As I understand the process, such transactions receive a bonus sometime after the initial sales transaction. The bonus can be attached or identified with a specific transaction although the time between the initial transaction and the receipt of the bonus is more often greater than 30 days

Answer: *Include the sales transaction as a revision in the week the transaction was initiated if the bonus was received within 30 days. Include it in the week it was originally sold, not when the bonus comes in.*

Question: If a CWT sale is shipped within 30 days of establishing the price, and the amount of the bonus is known, should the sale be reported even if the bonus is not actually received until a later date?

Answer: *The sale should be reported when the product is shipped and the bonus should be included as part of the sales price.*

### **Issue – Other Miscellaneous**

Question: You have provided the definition of instant non-fat dry milk, but there is also a product that is a semi-instant non-fat dry milk that has no added lactose. At what point in the spectrum should a product be excluded?

Answer: *The report form specifies that sales of low or medium heat, USDA Extra Grade and USPH Grade A, non-fortified nonfat dry milk should be reported.*

Question: Please confirm that “CCC purchases” is really sales to the CCC by the manufacturer and that purchases from CCC are excluded as a resale.

Answer: *Confirmed.*

Question: Assume that a federation of cooperatives normally markets its members' product to customers. Some of those customers will be the members or subsidiaries of members of the federation. The federation's job is to maximize the price for which product is sold and thus will charge all customers a market price. We would like to confirm that since title will only pass with the sale to the federation customer (that is the federation under this circumstance does not take title to the product from its member) that the first sale is to that federation customer, not to the federation. The federation collects that market price from its customer and pays its member pursuant to the federation agreement after subtracting its agency fee.

Answer: *Confirmed, assuming that the subsidiary purchasing the product is not a subsidiary of the member making the sale.*

Question: As a follow-up to the previous question. Under those circumstances since the assumed sale is made by the federation, we would like to confirm that the volumes sold to a member or a subsidiary of a member should be included. That means that the volume will not be excluded even if the product is produced by the federation's customer's parent company so long as the federation actually negotiates the sale?

Answer: *The sale would not be included if the sale were made to a subsidiary of the member who is the seller.*

Question: There is another type of transaction in the marketplace. Sometimes (this is not the norm) a member of the federation with product available for sale by the federation will sell the product to the federation usually because no immediate federation customer is available for that sale. An invoice will be generated, title passes to the federation and the federation will pay the federation member at the contract price for

the product usually at a market clearing price. Later the product will be resold by the federation at whatever price it can obtain for the product and the profit or loss on that sale will be shared through the federation itself and not paid or charged to the member making the sale to the federation, Please confirm that in this instance, the only reportable sale, if any, is the sale from the member of the federation to the federation.

Answer: *Confirmed.*

Question: Please confirm that if the member sells the product to the federation, the product remains in the member's warehouse and the federation does not ship the product to its customer within 30 days of that sale, NASS does not want any reporting of that transaction.

Answer: *Confirmed.*

Question: If the product in the previous question is shipped within 30 days, please confirm that the transaction should be reported and reported at the price agreed upon between the member and the federation.

Answer: *Confirmed.*